

**Joseph F. Knaust d/b/a Knaust Construction and Mak Construction, Inc., alter egos and Carpenters District Council of Greater St. Louis, AFL-CIO. Case 14-CA-21867**

November 30, 1994

# SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS STEPHENS  
AND BROWNING

On August 25, 1993, the National Labor Relations Board issued an unpublished Order adopting, in the absence of any exceptions, the administrative law judge's decision ordering the Respondent, Joseph F. Knaust d/b/a Knaust Construction and Mak Construction, Inc., alter egos, to make whole unit employees for the loss of wages and fringe benefits suffered by them as a result of the Respondent's failure to abide by the terms and conditions of the collective-bargaining agreement in violation of Section 8(a)(5) and (1) of the National Labor Relations Act. On November 18, 1993, the United States Court of Appeals for the Eighth Circuit entered its judgment enforcing the Board's Order.

A controversy having arisen over the amounts due under the Board's Order, on September 30, 1994, the Regional Director for Region 14 issued a compliance specification and notice of hearing alleging the amounts due thereunder, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

In a telephone conversation on October 21, 1994, and subsequently by letter dated October 24, 1994, counsel for the General Counsel advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by October 26, 1994, summary judgment would be sought. The Respondent filed no answer.

On November 7, 1994, the General Counsel filed with the Board a motion to transfer case to the Board and for summary judgment, with exhibits attached. On November 8, 1994, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

## Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer

within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment.

Accordingly, we conclude that the amount of fringe benefit fund contributions owed to the Union and the amount of net backpay due the unit employees are as stated in the compliance specification and we will order payment by the Respondent of said amounts to the Union and the unit employees, plus interest accrued on said amounts to the date of payment.

## ORDER

The National Labor Relations Board orders that the Respondent, Joseph F. Knaust d/b/a Knaust Construction and Mak Construction, Inc., alter egos, Lake St. Louis, Missouri, its officers, agents, successors, and assigns, shall make whole the unit employees by paying the Union and the unit employees the amounts set forth in the compliance specification, plus interest, and minus any tax withholdings on the net backpay due that may be required by Federal and state laws.

Dated, Washington, D.C. November 30, 1994

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William B. Gould IV, Chairman

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James M. Stephens, Member

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Margaret A. Browning, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD